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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2009-161

**DIANE MAE MORAN**  
A.K.A. DIANE DIAMOND  
1162 Devlin Court  
Vallejo, California 94591

**ACCUSATION**

Registered Nurse No. 512365

Respondent.

Complainant alleges:

**PARTIES**

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs.

2. On or about June 29, 1995, the Board of Registered Nursing issued Registered Nurse Number 512365 to Diane Mae Moran, also known as Diane Diamond (Respondent). The Registered Nurse license expired on September 30, 2006, and has not been renewed.

**JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing

(Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

### **STATUTORY PROVISIONS**

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct. . . ."

7. Section 2762 of the Code states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use

1 impairs his or her ability to conduct with safety to the public the practice authorized by his or her  
2 license. . . ."

3 8. Section 125.3 of the Code provides, in pertinent part, that the Board may  
4 request the administrative law judge to direct a licentiate found to have committed a violation or  
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
6 and enforcement of the case.

7 9. Section 118 of the Code states, in pertinent part:

8 "(b) The suspension, expiration, or forfeiture by operation of law of a license  
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the  
10 board or by order of a court of law, or its surrender without the written consent of the board, shall  
11 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the  
12 board of its authority to institute or continue a disciplinary proceeding against the licensee upon  
13 any ground provided by law or to enter an order suspending or revoking the license or otherwise  
14 taking disciplinary action against the licensee on any such ground. . . ."

15 10. Section 492 of the Code states:

16 "Notwithstanding any other provision of law, successful completion of any  
17 diversion program under the Penal Code . . . shall not prohibit any agency established under  
18 Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act  
19 referred to in that division, from taking disciplinary action against a licensee or from denying a  
20 license for professional misconduct, notwithstanding that evidence of that misconduct may be  
21 recorded in a record pertaining to an arrest. . . ."

## 22 DRUGS

23 11. "Methamphetamine" is a Schedule II controlled substance, as designated  
24 by Health and Safety Code section 11055(d)(2), and a dangerous drug pursuant to Business and  
25 Professions Code section 4022 in that it can be lawfully dispensed only by prescription.

## 26 FIRST CAUSE FOR DISCIPLINE

### 27 (Unprofessional Conduct: Unlawful Possession of Methamphetamine)

28 12. Respondent is subject to disciplinary action under Code sections 2761(a)

1 and 2762(a) in that she engaged in unprofessional conduct when she unlawfully possessed  
2 methamphetamine. The circumstances are set forth in paragraphs 13 and 14, below.

3           13. On or about January 5, 2007, methamphetamine was found inside  
4 Respondent's purse when she was stopped for a traffic violation in American Canyon, California.  
5 Respondent admitted to the police officer that the methamphetamine belonged to her, and, on or  
6 about March 21, 2007, Respondent further admitted her conduct when she pled guilty to a  
7 misdemeanor violation of Health and Safety Code section 11377(a), Possession of a Controlled  
8 Substance, in *People v. Diane Mae Moran*, Napa County Superior Court Case No. CR133732.  
9 In that case, Respondent was granted Deferred Entry of Judgment pursuant to Penal Code  
10 sections 1000 et seq. and criminal proceedings were suspended for a period of 18 months.<sup>1/</sup>  
11 Diversion was terminated successfully on October 15, 2008 and criminal proceedings were  
12 dismissed pursuant to Penal Code section 1000.3.

13           14. On or about April 12, 2007, Respondent was contacted by a Contra Costa  
14 Sheriff's Deputy in Orinda, California, and determined to be under the influence of a controlled  
15 substance. When contacted, Respondent was a passenger in a truck parked on the side of the  
16 road. When the deputy first approached the truck, the driver, standing outside the vehicle, tossed  
17 a glass pipe into the bed of the truck. Respondent later admitted to the deputy that she had  
18 snorted two lines of methamphetamine the previous evening, that she was in a treatment program  
19 for her methamphetamine use, and that she had been using methamphetamine for about three  
20 years. Said conduct was further admitted by Respondent on or about September 11, 2008, in the  
21 form of a guilty plea to violating Health and Safety Code section 11550(a), Being Under the  
22 Influence of a Controlled Substance, a misdemeanor, in *People v. Diane Moran*, Contra Costa  
23 County Superior Court Case No. 01-131951-6. On that date, Respondent was granted diversion  
24 pursuant to Penal Code sections 1000 et seq. and criminal proceedings were suspended for 18  
25 months. See footnote 1, *infra*.

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27           1. Pursuant to Penal Code section 1001.1(d), said guilty plea does not constitute a  
28 conviction for any purpose unless a judgment of guilty is entered pursuant to Penal Code  
section 1000.3.

1                                   **SECOND CAUSE FOR DISCIPLINE**

2                   **(Unprofessional Conduct: Administration of a Controlled Substance)**

3                   15.     Respondent is subject to disciplinary action under Code sections 2761(a)  
4 and 2762(a) in that she engaged in unprofessional conduct when she self-administered  
5 methamphetamine. The circumstances are set forth in paragraph 14, above.

6                                   **THIRD CAUSE FOR DISCIPLINE**

7                   **(Unprofessional Conduct: Use of a Controlled Substance in a Dangerous Manner)**

8                   16.     Respondent is subject to disciplinary action under Code sections 2761(a)  
9 and 2762(b) in that she engaged in unprofessional conduct by using methamphetamine to an  
10 extent or in a manner dangerous or injurious to herself, any other person, or the public. The  
11 circumstances are set forth in paragraph 14, above.

12                                  **FOURTH CAUSE FOR DISCIPLINE**

13                                  **(Unprofessional Conduct)**

14                   17.     Respondent is subject to disciplinary action under Code section 2761(a) in  
15 that she engaged in general unprofessional conduct when, on or about January 5, 2007, she  
16 unlawfully possessed methamphetamine and, on or about April 12, 2007, she possessed, used,  
17 and was under the influence of methamphetamine. The circumstances are set forth in paragraphs  
18 13 and 14, above.

19                                   **PRAYER**

20                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
21 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

22                   1.     Revoking or suspending Registered Nurse Number 512365, issued to  
23 Diane Mae Moran;

24                   2.     Ordering Diane Mae Moran to pay the Board of Registered Nursing the  
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
26 Professions Code section 125.3; and

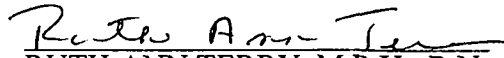
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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/26/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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